

EXHIBIT G

Redrafted Declaration of Kathleen T. Zellner
In Support of Plaintiff's Redrafted Responses to
Defendants' Renewed/Second Motions for Summary Judgment
(C11-5424BHS)

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CLYDE RAY SPENCER, MATTHEW
RAY SPENCER, and KATHRYN E.
TETZ,

Plaintiffs,

vs.

NO. 3:11-cv-05424-BHS

FORMER PROSECUTING ATTORNEY
FOR CLARK COUNTY JAMES M.
PETERS, DETECTIVE SHARON
KRAUSE, SERGEANT MICHAEL
DAVIDSON, CLARK COUNTY
PROSECUTOR'S OFFICE, CLARK
COUNTY SHERIFF'S OFFICE, THE
COUNTY OF CLARK and JOHN DOES
ONE THROUGH TEN,

Defendants.

DEPOSITION UPON ORAL EXAMINATION OF SHARON KRAUSE

Tuesday, November 6, 2012
Olympia, Washington

1	EXHIBIT NO.	DESCRIPTION	PAGE/LINE
2	NO. 34	Krause Deposition, 5/22/96; 72 pgs.	169 2
3	NO. 35	Shirley Spencer Deposition, 6/4/96; 18 pgs.	7 7
4	NO. 36	Shirley Spencer Evidence Deposition, 8/30/96; 27 pgs.	7 7
5	NO. 37	Krause Federal Habeas Hearing Transcript; 31 pgs.	7 7
6	NO. 38	Reference Hearing Transcripts During Hearing on Spencer's PRP; 28 pgs.	7 7
7	NO. 39	Tim Hammond Interview of Sharon Krause; 9 pgs.	7 7
8	NO. 40	Tim Hammond Interview of Shirley Spencer; 11 pgs.	7 7
9	NO. 41	Tim Hammond Interview of DeAnne Spencer; 15 pgs.	7 7
10	NO. 42	Tim Hammond Interview of Michael Davidson; 7 pgs.	7 7
11	NO. 43	Krause's Answers to Plaintiff's Interrogatories; 22 pgs.	7 7
12	NO. 44A	Krause Document Production (KRAUSE 1-399)	7 7
13	NO. 44B	Krause Document Production (KRAUSE 400-793)	7 7
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

ZELLNER (Sharon Krause, 11/6/12)

9

1 receive these from you last Friday, and so she hasn't had
2 much time to have them available, but she has been given
3 them and has reviewed them.

4 And I also notice the notebooks provided to Dixie
5 Cattell stop at 43 in the index. And then I saw the index
6 you sent to me does include the two training seminar
7 material items as 44A and B. So we've got both of those
8 indexes here today.

9 MS. ZELLNER: Right. Yeah, 44A and 44B are
10 actually from your production requests to us.

11 MR. BOGDANOVICH: Correct.

12 MS. ZELLNER: So 44A and B have your Bates
13 stamps on them. Is that your understanding?

14 MR. BOGDANOVICH: Yeah, that is my
15 understanding. I just wanted to make sure Dixie knew that
16 44 wasn't included in her index.

17 MS. ZELLNER: Okay, thank you for that
18 clarification.

19 Q (By Ms. Zellner) Ms. Krause, let's start with what we've
20 labeled Exhibit 1 in the binder. If you could turn to that
21 document. If we look at Bates stamp 251, August 30, 1984.
22 Do you see that document?

23 A I do.

24 Q Bates stamp 251 and 252, was that index prepared by you?

25 A I'm sure it was.

ZELLNER (Sharon Krause, 11/6/12)

10

1 Q And why are you sure that it was? Was that a common
2 practice for you to prepare indexes on your case files?

3 A Not on every case, but when we had a major case --

4 I have to apologize for my voice, but I had a throat
5 infection this summer, and so it's a little raspy.

6 Q Sure. Okay.

7 A When it involved more than one victim or it involved
8 several children or several witnesses, then I would prepare
9 this index. In the event somebody later needed to find
10 something, they would know which section it was in.

11 Q And was the index stored with the file, or where was it
12 kept in the Sheriff's Department?

13 A You know, it -- usually when I prepared the index, it was
14 after the case was completed and I'm putting it all
15 together, and then that index would be attached to the
16 complete file.

17 Q And do you know if the complete file with the index that
18 was prepared on August 30, 1984, was at some point in time
19 sent to the prosecutor's office before Ray Spencer's plea?

20 A I can't say that, no. I don't know that that index went
21 there.

22 Q Who was responsible for gathering up the documents in a
23 case including the index and sending them over to the
24 prosecutor's office, sending the documents?

25 A It depended on the case. If -- you know, this was a real

ZELLNER (Sharon Krause, 11/6/12)

11

1. sensitive investigation, and initially I recall that there
2. was communication between the prosecutor's office,
3. Sheriff's office, and the city police.

4. And so as it progressed, I know that there were
5. reports going over to the prosecutor; it wasn't when
6. everything was done that it went over. During that
7. investigation, they were getting them.

8. It was my practice, if we ended up going to trial, I
9. would always sit down with the prosecutor prior to that and
10. go through everything and make sure they had everything,
11. but it --

12. Q Okay. So let me see if I understand it. So what you would
13. do, what your custom and practice was on a case like the
14. Spencer case, would be to send over the reports as they
15. were being done. But then, in addition to that, if the
16. case went to trial, you would sit down and go through the
17. documents and make sure that the prosecutor had all of the
18. documents? Is that pretty much what you're saying?

19. A That was my practice. And prior to trial, sit down and go
20. through everything and make sure that I had what I needed
21. and the prosecutor had everything I had or, you know, was
22. in our file.

23. Q And did you ever have the experience with the prosecutor's
24. office when you would have that meeting and go through and
25. describe each report, each piece of evidence, where the

ZELLNER (Sharon Krause, 11/6/12)

14

1 of the investigation.

2 Q (By Ms. Zellner) Okay. That makes sense, and when we get
3 to the Utility Report, if you could mention that to me, we
4 may be able to confirm that from the Utility Report --

5 A Okay.

6 Q -- because I've never, you know, really heard an
7 explanation of this before. So if you'll just remind me
8 when we get to the Utility Report, we can see if we can
9 connect it up. So that's Exhibit 1.

10 Now, if we look at Exhibit 2, it appears to be
11 another index, and that's at Bates stamp 3, Bates stamp 3.
12 There's just one page of that. Do you recognize this
13 document?

14 A It looks like what I would have done, like the first one.

15 Q All right. And it's dated November 8, 1984, correct?

16 A It is.

17 Q Now, you probably heard the question before. How do you
18 explain the fact that the earlier dated index has more
19 items on it, including the Kathryn Spencer medical report?

20 A Again, I'm -- I think that this index included the second
21 portion, but I don't know. I can't honestly answer that.

22 Q Okay. So that you think the November 8th index included
23 items from the first index, from Exhibit 1?

24 MS. FETTERLY: Object to the form of the
25 question.

ZELLNER (Sharon Krause, 11/6/12)

15

1 A I don't know. I don't know. I'd have to look at the
2 reports and. . .

3 Q (By Ms. Zellner) Right. And we will do that. The issue,
4 I think, is that on August 30, 1984, it's referenced the
5 medical examination report on Kathryn Spencer is included
6 in the August 30th report. Do you see that under section
7 3?

8 A Number -- or looking at Exhibit 1?

9 Q Yes.

10 A Yes, yes.

11 Q Section 3?

12 A Yes, I see that.

13 Q And then if you'd look over at Exhibit 2, there is no
14 longer mention of the medical examination report on Kathryn
15 Spencer. Do you see that?

16 A I do.

17 Q Okay. And do you have any explanation why the medical
18 report was not referenced in the second index?

19 A No, with the exception of what I explained before, that
20 there was that first section and there was an additional
21 investigation, so I don't. I can't explain that to you.
22 But, obviously, it was in the first one.

23 Q Do you have any independent recollection of whether the
24 medical report on Kathryn Spencer's exam was turned over to
25 the prosecutor's office?

ZELLNER (Sharon Krause, 11/6/12)

16

1 A Could you ask me that again?

2 Q Sure.

3 A Thank you.

4 Q Do you have any independent recollection of whether Kathryn
5 Spencer's medical examination was turned over to the
6 prosecutor's office during the investigation?

7 A No independent recollection. It's been so long.

8 Q Have you -- oh, I know. Has there been anything you've
9 read in all of these exhibits that's triggered your memory
10 or made you believe that that medical report was turned
11 over to the prosecutor's office?

12 A I can't -- I can't imagine why -- first of all, I wouldn't
13 have -- there wouldn't be any reason for me not to have
14 done that, and that was our practice. Everything went
15 there. However, this -- there were reports on that
16 investigation going over to the prosecutor's piecemeal.
17 I've thought about this a lot since we've got, you know,
18 got involved in this. There were reports going over not in
19 one big lump. They were going as we went along. So there
20 wouldn't have been any reason for me not to have sent that
21 over.

22 Also I've worked with Jim Peters for years, and he is
23 so meticulous, I can't imagine at least discussing that
24 with him, but I'm sure that wasn't the only case he was
25 doing, and this certainly wasn't the only case I was

ZELLNER (Sharon Krause, 11/6/12)

17

1 responsible for. But it's possible that that report went
2 to our Records, just that report, what the Utility Report
3 covered. Now, where it went from Records or if it went to
4 anyplace, I can't say. I -- however, obviously, I put a
5 copy in my notebook.

6 It was also my practice, when we had a major case, to
7 have two notebooks. One was my working notebook that I
8 could scribble on, and the other was for the major case
9 with the original reports.

10 So there wouldn't have been any reason why it
11 wouldn't have gone over. I would have sent it to Records.
12 There were times when I would make copies for the PA, the
13 prosecutor, and I'd put a note on, when I sent them to
14 records, "I've copied these for the PA" or "they have their
15 copies" or "these are for the PA." So if it went to
16 Records, I don't know if it went from our Records to the
17 prosecutor. After it went there, I don't know where it
18 went. And I have no independent recollection about taking
19 it over.

20 Q All right. So when material was transmitted from your
21 office to the prosecutor's, it would go to the Records
22 Department in the Sheriff's Department first, and then they
23 would send it over --

24 A Yes.

25 Q -- to the prosecutor, is that right?

ZELLNER (Sharon Krause, 11/6/12)

27

1 Q Okay. Now going to -- what was your understanding of
2 Officer Flood's involvement in the early stages of the
3 Spencer investigation?

4 A Again, it's not based on independent recollection. It's
5 based on my review of these reports, but that he -- his
6 department apparently was contacted by Children's
7 Protective Services. He was assigned to follow up on the
8 complaint that they had. Based on the -- and he made a
9 phone call to the Spencer residence, spoke -- it's my
10 understanding it was Shirley Spencer he was trying to
11 contact initially, but he spoke with Ray Spencer and then
12 spoke with Shirley Spencer. Based on concerns, he went to
13 the house and interviewed the children, also subsequently
14 spoke with the mother.

15 Q Okay. And is it your understanding of the evolution of the
16 case that Officer Flood was the first law enforcement
17 officer to conduct interviews of the Spencer children?

18 A I believe so. I think he was the first one.

19 Q Do you know if at the time you conducted your first
20 interview of Kathryn Spencer you were aware of the details
21 of Officer Flood's interview of Kathryn Spencer?

22 A I would think it would be reflected in the report, but I
23 assume -- I believe that I was aware. In fact, I know I
24 was aware that he had spoke with them.

25 Q Okay. And what it seems like you just -- have just stated

ZELLNER (Sharon Krause, 11/6/12)

34

1 wouldn't have been in my file. And there's also
2 information, I think in one of my reports, where I
3 documented that I had received them.

4 Q Let's look at Exhibit 6. Again, this is a handwritten
5 report from the King County Prosecuting Attorney's Office.
6 Had you, during the course of the investigation, received
7 this three-page handwritten report in Plaintiff's
8 Exhibit 6?

9 A I have no recollection, independent recollection, about
10 this report, nor do I recall receiving it.

11 Q Do you recall ever discussing with anyone during the
12 Spencer case the findings of this Prosecutor Roe in her
13 report?

14 A I have some memory of discussing this, and I don't remember
15 if it was with Jim Peters or Art Curtis or both. I knew
16 who Becky Roe was because I did training at the police
17 academy and I met her there, so I knew who she was, and I
18 remember that. And I also recall that I had -- this wasn't
19 my request that she review that. It went from the
20 prosecutor's office. So, you know, I was aware of that.
21 But other than that, as far as specifics, I have no
22 independent recollection, nor do I recall if I ever saw
23 this.

24 Q Okay. And when -- we were talking about this yesterday, so
25 on Bates stamp 227, on that first page of the report, at

ZELLNER (Sharon Krause, 11/6/12)

48

1 Q And Shirley Spencer was very upset and confused about what
2 was going on, right?

3 A Ray Spencer came in that 9/21 to take the polygraph.

4 Q Right. And Shirley Spencer was with him, correct?

5 A Correct. That's correct.

6 Q And then Mike Davidson was also present, and he talked to
7 Shirley Spencer, you and Mike Davidson?

8 A Correct.

9 Q Okay. Shirley Spencer was extremely upset and confused
10 about what was going on, correct?

11 A Based on the report, she was having a real hard time.

12 Q Right. And you even document that she was crying or she
13 was attempting to hold back tears?

14 A That's correct.

15 Q Is that accurate?

16 A Yes.

17 Q Shirley Spencer makes -- apparently indicates that she
18 found it was very difficult to believe that there was even
19 a possibility that her husband Ray would have had any type
20 of sexual contact with Kathryn. That's correct?

21 A That's what it reflects, the report, yes.

22 Q And Shirley Spencer also indicated that she lived -- during
23 the time she had lived with Spencer, she never observed
24 anything that would have concerned her regarding Ray
25 Spencer having a problem specifically being sexually

ZELLNER (Sharon Krause, 11/6/12)

49

1 attracted to children. That's the information she conveyed
2 to you?

3 A Yes.

4 Q And she also told you that she had a four-year-old son and
5 grandchildren, and she would have been concerned about
6 their safety if she even suspected something like that
7 would happen, right?

8 A Correct.

9 Q Shirley Spencer said that she wished she had never said
10 anything, correct, because of all the problems it had
11 caused?

12 A Yes.

13 Q Shirley Spencer, during that meeting, never indicates to
14 you that she suspects her husband Ray of abusing Kathryn or
15 the other children; is that right?

16 A Could you ask me that again?

17 Q Sure. There's no indication in your meeting with Shirley
18 Spencer on 9/21/84 that she has any doubt about Ray
19 Spencer's innocence of the allegations?

20 A I think initially in this interview she consistently
21 expressed her feelings that, you know, she didn't -- well,
22 let me rephrase.

23 She said she found it hard to believe. She never saw
24 anything that would have caused her concern. However, she
25 was the one who called and reported based on Kathryn's

ZELLNER (Sharon Krause, 11/6/12)

50

1 initial disclosure. So I can't say what Shirley Spencer
2 felt, but, you know, she had concerns and so she acted on
3 those.

4 Q Right. But you would agree Ray Spencer's actually the one
5 who had her write up everything that Kathryn had told to
6 her, correct, that Ray asked her to document?

7 MR. BOGDANOVICH: Object to the form.

8 You can answer.

9 Q (By Ms. Zellner) Is that your understanding, that Ray had
10 asked her to document the allegations?

11 A What I understand is when I spoke to him, he told me he
12 told her to write it down. You know, that's the
13 information I had.

14 Q Well, she actually did write up the allegations, right?

15 A She did, and I had a copy of those.

16 Q Right. And my point is, at this meeting, without trying to
17 read her mind, she doesn't express any concern that Ray
18 Spencer had molested her daughter Kathryn? Would you agree
19 with that?

20 A I guess I don't like the word "concerned." She didn't want
21 to believe it. I don't think -- you know, she was
22 reluctant to even entertain the possibility. I can't say
23 whether she had concerns. I think she had concerns, but --

24 Q Well, she was -- okay. But she wasn't concerned about Ray
25 Spencer. In that interview on page 7 of 12, she's actually

ZELLNER (Sharon Krause, 11/6/12)

51

1 expressing concern about the children's biological mother,
2 DeAnne Spencer, if you'll look at page 7 of 12, two
3 paragraphs from the bottom. She was expressing concerns
4 about DeAnne Spencer and that she might have a man living
5 with her that could be responsible for this.

6 A She did tell me that, yes.

7 Q Do you see that?

8 A Um-hmm.

9 Q Right.

10 A Yes.

11 Q So, certainly at this point in your investigation, you
12 would say that -- or would you agree that there was
13 absolutely no probable cause to arrest Ray Spencer for
14 molesting Katie Spencer?

15 A I don't think at that point there would have been probable
16 cause, no.

17 Q Right. And you would agree with me that sometimes in an
18 investigation, there are indications that there is not
19 probable cause to arrest someone, correct?

20 A Could you ask me that again?

21 Q Right. As you proceed in this investigation, you clear
22 certain people, like you end up clearing Karen Stone of any
23 involvement even though she's mentioned in the initial
24 allegations. Do you recall doing that?

25 A Yes.

ZELLNER (Sharon Krause, 11/6/12)

64

1 indicated that Vancouver Police, I think it was Holtz, told
2 him that they had information Spencer had contacted Karen
3 Stone. And her demeanor changed after that as far as my
4 contact with her.

5 So Katie, Kathryn, said she had lied. I talked to
6 her, Karen Stone, and so it was a process of trying to
7 eliminate those other people. And, you know, there was no
8 evidence other than her -- Kathryn's first statement that
9 implicated Karen Stone. So I guess I just wanted to talk
10 to him about that. Do we leave it at that, or do I push on
11 her? And she was having a terrible time also.

12 (Videoconference connection lost)

13 (Recessed at 10:53 a.m.)

14 (Reconvened at 11:02 a.m.)

15 (The last question and answer
16 were read back by the reporter).

17 Q (By Ms. Zellner) Okay, so let me pick up from there. Were
18 you talking to Jim Peters when you say you were talking to
19 the prosecutor?

20 A It doesn't indicate who exactly I talked to. It would have
21 been Jim or Art or both --

22 Q Okay. So --

23 A -- or Curtis.

24 Q Would it be a fair statement to say the only two
25 prosecutors you talked to about your investigation of Ray

ZELLNER (Sharon Krause, 11/6/12)

65

1 Spencer would either be Jim Peters or Art Curtis?

2 A I believe initially. If there were others, I don't
3 remember, but the prosecutor assigned to that case was Jim
4 Peters --

5 Q Okay.

6 A -- so I don't know. I don't remember.

7 Q Do you -- if we go back to this page 7 of 7, the last
8 paragraph, it says "After that conversation, I did meet
9 with the prosecutor and it was agreed that at this time it
10 was not necessary based on the fact that Karen Stone had
11 denied any type of sexual contact, and, further, that was
12 corroborated by Kathryn Spencer during the time I spent
13 with her when Kathryn indicated that she had lied about
14 Karen Stone." Is that accurate?

15 A That's what it states, yes.

16 Q Okay. So what role was the prosecutor -- I guess, let me
17 rephrase it. Is it correct that you were consulting with
18 the prosecutor during the investigation about which
19 witnesses to pursue and which to not pursue?

20 MS. FETTERLY: Object to form.

21 But you can answer.

22 A I don't think that's a fair statement because he wasn't
23 directing my investigation. No. I didn't consult with the
24 prosecutor.

25 Q (By Ms. Zellner) But you did seek the advice of the

ZELLNER (Sharon Krause, 11/6/12)

66

1 prosecutor about Karen Stone, correct --

2 A I did, based on --

3 Q -- about the situation with Karen Stone?

4 A I'm sorry. Based on --

5 Q Right. Is that correct?

6 A That's correct.

7 Q And your purpose in talking to the prosecutor was to get an
8 agreement with him that it wasn't necessary to pursue the
9 investigation of Karen Stone?

10 MR. BOGDANOVICH: I'm going to object to the
11 form of the question. I think it's been asked and
12 answered.

13 But go ahead.

14 MS. ZELLNER: Well, all right.

15 Q (By Ms. Zellner) Your words are, "I did meet with the
16 prosecutor and it was agreed that at this time it was not
17 necessary." And then I have already read the other part of
18 that sentence. So you did meet with the prosecutor, and
19 you did get the prosecutor's agreement that it wasn't
20 necessary to pursue the investigation of Karen Stone,
21 correct?

22 A That's what it states, yes.

23 Q Okay. And in the last sentence, it states, "Based on the
24 statements made by Stone and Kathryn Spencer and also all
25 other information that has developed in this investigation,

ZELLNER (Sharon Krause, 11/6/12)

67

1 any investigation regarding Karen Stone as a suspect will
2 be suspended as unfounded." Correct?

3 A Correct.

4 MR. BOGDANOVICH: Counsel, I'm going to object.
5 I think you added an "all" that isn't in the sentence you
6 just read. You said, "and also all other information."
7 And it says, "also other information."

8 MS. ZELLNER: Okay. Did I misread it? I'll
9 reread it.

10 MR. BOGDANOVICH: Yeah, you just added an "all"
11 that isn't in there.

12 Q (By Ms. Zellner) Okay. So this is correct, "Based on the
13 statements made by Stone and Kathryn Spencer, and also
14 other information that has developed in this investigation,
15 any investigation regarding Karen Stone as a suspect will
16 be suspended as unfounded." I'm correctly reading that,
17 right?

18 A That's what I read. It's correct.

19 Q That's correct?

20 A Yeah.

21 Q All right. And it's correct that you decide to suspend the
22 investigation of Karen Stone as unfounded after you talk to
23 the prosecutor and reach an agreement about that?

24 A I suppose that's correct. I discussed it with him.

25 Q All right.

ZELLNER (Sharon Krause, 11/6/12)

93

1 there would be no way to view it.

2 Q (By Ms. Zellner) Okay. So the Sheriff's Department then
3 did have the ability to videotape interviews, is that
4 correct, at that time?

5 A Not really. I wouldn't say that was correct. We used
6 video cameras at crime scenes occasionally or homicides,
7 but we really weren't set up to actually do an interview.

8 Q Well, one was done though, right, with a videotape?

9 A Obviously that one was, yes.

10 Q Right. So that occurred -- when the break was taken for an
11 hour and five minutes, did you have any contact with anyone
12 who was in that room during the interview?

13 A I don't recall.

14 Q Well, when you say you don't recall, might you have had
15 contact and you just don't remember it?

16 A I don't remember anything about that, the circumstances of
17 that interview, so I can't say. I really do not remember.

18 Q So you don't know where you went -- or you said you went to
19 a cubicle; you do remember that?

20 A I don't remember that. That's what I said to her on the
21 tape. I'm going to go over to my office or work space or
22 something similar. That's the only reason I said that. I
23 don't remember. I don't remember the interview, I don't
24 remember the day, and I don't remember where I went. I
25 remember -- I only am basing that on what I saw in the

ZELLNER (Sharon Krause, 11/6/12)

94

1 tape.

2 Q Okay. And prior to that interview, during the course of
3 the investigation up to December 11, 1984, did you have
4 conversations with Jim Peters about the case?

5 A Oh, I'm certain I did.

6 Q And did you have more than two conversations with Jim
7 Peters from the beginning of this case in the summer of '84
8 up until December 11, 1984?

9 A I'm sure I would have, yes.

10 Q Did you have more than a half a dozen conversations with
11 Mr. Peters?

12 A Unless it's documented in a report specifically, I would
13 have no way of telling you how many times I met with him.

14 Q Oh, you met with him too. How many times did you meet with
15 him, would you estimate, between the beginning of the case
16 up to this interview of December 11?

17 A I don't have any idea unless it's documented in a report,
18 or the same with the phone conversation, unless it's
19 documented in a report, whether I met with him, with Art
20 Curtis or both of them, I would have no way of knowing
21 that. I don't remember.

22 Q Okay. You are obviously present for some of that
23 interview. Do you have any recollection of why you were
24 present at the interview? You may not know why he was. Do
25 you know why you were there?

ZELLNER (Sharon Krause, 11/6/12)

159

1 those conversations, or those conversations took place in
2 that area, but I don't ever remember going upstairs to talk
3 to him in the jail, and I don't remember that Mike Davidson
4 did.

5 Q Okay. So you don't have a memory of it?

6 A No, I don't.

7 Q Okay. So it may have occurred, you don't remember it?

8 A I think if it occurred, I'd remember it.

9 Q Okay. Let's look at Exhibit 20. Can you tell me --

10 MR. BOGDANOVICH: Do you need to take a break?

11 THE WITNESS: (Shakes head).

12 Q -- identify that for the record?

13 A 20? It's a report I dictated, typed for me, and it was
14 2/20/85, suspect interview.

15 Q And is that, again, an accurate report of your interview?

16 A It should be, yes.

17 Q And then let's go to 21. Can you identify that for me?

18 A Minus all handwriting on it. It's a report I prepared --
19 dictated. It was prepared for me or typed, dated 3/7/85,
20 Interview with Victim, interview with Matthew Alan Hansen.

21 Q And, again, is that an accurate rendition of your interview
22 with Matthew Hansen, the quotes and everything else?

23 A Yes. Yes.

24 Q Is that "yes"?

25 A Yes.

C E R T I F I C A T E

I, DIXIE J. CATTELL, the undersigned Registered Professional Reporter and Washington Certified Court Reporter, do hereby certify:

That the foregoing deposition of SHARON KRAUSE was taken before me and completed on the 6th day of November, 2012, and thereafter transcribed by me by means of computer-aided transcription; that the deposition is a full, true and complete transcript of the testimony of said witness;

That the witness, before examination, was, by me, duly sworn to testify the truth, the whole truth, and nothing but the truth, and that the witness reserved signature;

That I am not a relative, employee, attorney or counsel of any party to this action or relative or employee of such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That I am herewith securely sealing the deposition of SHARON KRAUSE and serving the same upon MS. KATHLEEN ZELLNER.

IN WITNESS HEREOF, I have hereunto set my hand this _____ day of _____, 2012.

Dixie J. Cattell, RPR, CCR
NCRA Registered Professional Reporter
Washington Certified Court Reporter CSR#2346
License Expires July 16, 2013.



FRANK KANEKOA
Sheriff

ROBERT L. SONGER
Undersheriff

GARRY E. LUCAS
Chief
Criminal Deputy

RICHARD A. DYER
Chief
Civil Deputy

THOMAS H. WENTWORTH
Chief
Jail Administrator

DOUGLAS S. RAY
Lieutenant
Special Services

DALE A. CONN
Lieutenant Operations

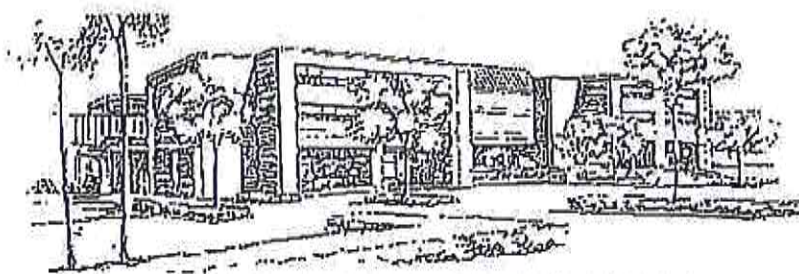
F. LARRY BYLER
Lieutenant Operations

DOUGLAS W. MAAS
Sector/Planning Research

DAVID A. McRAY
Administrative Assistant

HUBB L. UTTERBACK
Lieutenant
Special Services
Custody Division

JOSEPH R. DUNEGAN
Lieutenant Operations
Custody Division



CLARK COUNTY SHERIFF'S OFFICE

P.O. BOX 410
1200 FRANKLIN STREET
VANCOUVER, WASHINGTON 98666
(206) 699-2311

August 30, 1984

INDEX

CCSO Case #84-8506

VICTIM: SPENCER, Kathryn E. Dob; 03-13-79
3930 Becerra Way
Sacramento, California
(916) 482-6057

SUSPECT: SPENCER, Clyde Ray Dob; 01-09-48
17681 N.E. Lucia Falls rd.
Yacolt, Washington
(206) 687-1407

SECTION #1. CCSO Crime Reports
Written Statement by Shirley Spencer

SECTION #2. Sacramento Co. Sheriff's Office Reports

SECTION #3. Medical Examination Reports on Kathryn Spencer

SECTION #4. Release of Information from DeAnna Spencer
reference Therapist, Ann Link

SECTION #5. Letter of request from CPS regarding
status of Ray Spencer

SECTION #6. Interview with Kathryn Spencer
10-16-84

SECTION #7. Interview with Kathryn Spencer
10-18-84

SECTION #8. Interview with Matthew Spencer
10-17-84



00000251

Spencer000001



FRANK KANEKO
Sheriff

ROBERT L. SONGER
Under Sheriff

GARRY E. LUCAS
Chief
Criminal Division

RICHARD A. DYER
Chief
Civil Division

THOMAS H. WENTWORTH
Chief
Jail Administration

DOUGLAS S. RAY
Lieutenant
Special Services

DALE A. CONN
Lieutenant Operations

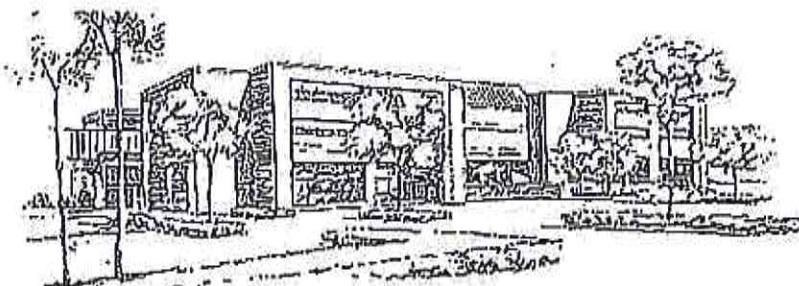
F. LARRY BYLER
Lieutenant Operations

DOUGLAS W. MAAS
Lieutenant/Plumbing Research

DAVID A. MCKAY
Intelligence Assistant

THURIEL UTTERBACK
Lieutenant
Special Services
Custody Division

JOSEPH K. DUNEGAN
Lieutenant Operations
Custody Division



CLARK COUNTY SHERIFF'S OFFICE

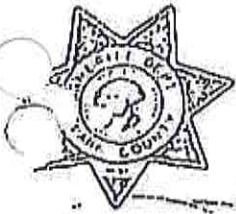
P.O. BOX 410
1202 FRANKLIN STREET
VANCOUVER, WASHINGTON 98666
(206) 699-2211

page #2
CCSO 84-8506

- SECTION #9. Interview with Kathryn Roe
10-17-84
- SECTION #10. Interview with Phyllis Day
10-17-84
- SECTION #11. Interview with Linda Lawrence
10-18-84
- SECTION #12. Interview with DeAnne Spencer
10-18-84
- SECTION #13. Polygraph Reports on DeAnne Spencer
from Sacramento Co. Sheriff's Office
- SECTION #14. Interview with Karen Stone
10-02-84
- SECTION #15. Interview with Ray Spencer (dates vary)
Interview with Shirley Spencer
- SECTION #16. Polygraph Reports on DeAnne Spencer
from Dr. Stanley Abrams, Ph.D.
- SECTION #17. Misc. Reports and information/CCSO
- SECTION #18. Misc. Reports and information/VPD

00000252

Spencer000002



MARK KANEKOA
Sheriff

HARLES E. BRINK, JR.
Under Sheriff

ROBERT L. SONGLER
Chief
Criminal Deputy

MAS H. WENTWORTH
Chief
Civil Deputy

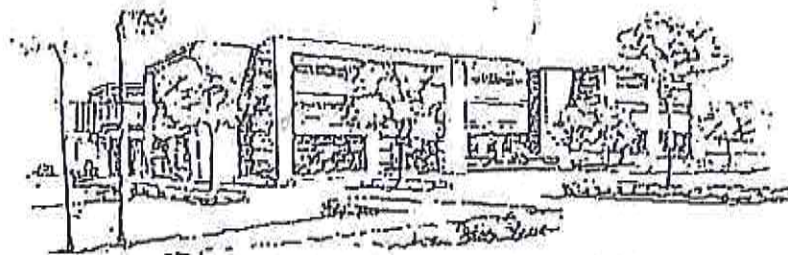
RICHARD A. DYER
Chief
Jail Administration

GARRY L. LUCAS
Lieutenant
Special Services

DOUGLAS S. RAY
Lieutenant
Operations

MARVIN A. MILLER
Lieutenant
Adm. Services

P. L. UTTERBACK
Lieutenant
Criminal Supervision



CLARK COUNTY SHERIFF'S OFFICE

P.O. BOX 410
1200 FRANKLIN STREET
VANCOUVER, WASHINGTON 98666
(206) 699-3111

NOVEMBER 8, 1984

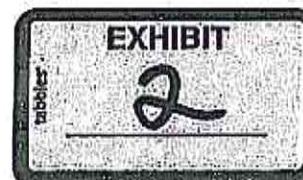
INDEX

CCSO Case #84-8506

VICTIM: SPENCER, Kathryn E. Dob: 03-13-79
3930 Becerra Way
Sacramento, California
(916) 482-6057

SUSPECT: SPENCER, Clyde Ray Dob: 01-09-48
17601 N.E. Lucia Falls Rd.
Yacolt, Washington
(206) 687-1407

Section #1:	CCSO Crime Reports Written Statement by Shirley Spencer
Section #2:	Sacramento Co. Sheriff's Office Reports
Section #3:	Polygraph Report/Dr. Abrams
Section #4:	Interview with Kathryn Spencer 10-16-84 Guy known as Santa
Section #5:	Interview with Kathryn Spencer 10-18-84
Section #6:	Interview with Matthew Spencer "Big Matt" 10-17-84 Guy known as Santa (Audiotape)
Section #7:	Interview with Kathryn Roe 10-17-84
Section #8:	Interview with Linda Lawrence 10-18-84
Section #9:	Interview with Phyllis Day 10-17-84



Spencer000003

EXHIBIT H

Redrafted Declaration of Kathleen T. Zellner
In Support of Plaintiff's Redrafted Responses to
Defendants' Renewed/Second Motions for Summary Judgment
(C11-5424BHS)

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CLYDE RAY SPENCER, MATTHEW RAY
SPENCER, and KATHRYN E. TETZ,

Plaintiffs,

vs.

No. 3:11-cv-05424-BHS

FORMER PROSECUTING ATTORNEY FOR
CLARK COUNTY JAMES J. PETERS,
DETECTIVE SHARON KRAUSE,
SERGEANT MICHAEL DAVIDSON,
CLARK COUNTY PROSECUTOR'S
OFFICE, CLARK COUNTY SHERIFF'S
OFFICE, THE COUNTY OF CLARK and
JOHN DOES ONE THROUGH TEN,

Defendants.

DEPOSITION UPON ORAL EXAMINATION OF
REBECCA J. ROE

Thursday, December 13, 2012

Taken at 810 3rd Avenue, Suite 500
Seattle, Washington

1:36 p.m.

REPORTED BY: KAREN M. GRANT, CCR NO. 2155
DIXIE CATTELL & ASSOCIATES
COURT REPORTERS & VIDEOCONFERENCING
(360) 352-2506 * (800) 888-9714

REBECCA J. ROE - 12/13/2012

Page 9

1 RCW 9.94A.411. And then I reviewed the Ninth Circuit
2 Model Civil Jury Instruction defining probable cause,
3 which is Instruction 9.20. And I think that's it.

4 Q. Okay. Let me go back a little bit. You
5 mentioned you reviewed an actual video and a video
6 interview of Katie Spencer. Are you referring to a
7 transcript plus an actual video of that interview?

8 A. Yes. I watched the video of the interview,
9 and then I -- and then I got the transcript later.

10 Q. All right. And do you have all those
11 materials you just talked about in front of you today?

12 A. I do.

13 Q. Okay. Is there anything else at all that you
14 looked at prior to the deposition today regarding this
15 case?

16 A. I recall looking -- oh, I'm sorry. I looked
17 at and read the section of the American Prosecutors
18 Research Institute, the prosecution of child abuse
19 manual that I was one of the primary authors of, I
20 reviewed the section on investigation.

21 And I looked at a couple -- I've looked at a
22 couple of different cases, Washington case law, and --
23 but I don't have that in front of me. And I think
24 that's it.

25 Q. All right. Do you remember the names of any

REBECCA J. ROE - 12/13/2012

Page 13

1 contained falsified information?

2 A. No.

3 Q. Would you expect those notes to have contained
4 falsified information?

5 A. No.

6 Q. In the event those notes did contain falsified
7 information, might that affect your opinions in this
8 case?

9 A. Anything might affect my opinions in this
10 case.

11 Q. Okay. You mentioned you reviewed
12 correspondence between King County and Art Curtis?

13 A. Right.

14 Q. Was that the January 9th, 1985 letter?

15 A. Yes.

16 Q. Any other correspondence?

17 A. There's January 9th, there was a letter from
18 Art Curtis to Norm on the 5th, there was a letter to
19 Chief Davis, also on the 9th, and then the letter --
20 the -- then the letter to me. So there were three
21 letters that I looked -- that I'm including in that
22 correspondence.

23 Q. All right. And the letter from Art Curtis to
24 Norm Maleng was on January 5th of 1985?

25 A. Yes, that's what it looks -- excuse me.

REBECCA J. ROE - 12/13/2012

Page 14

1 That's what it looks like to me.

2 Q. Okay. And was Norm Maleng the prior elected
3 prosecutor of King County?

4 A. Yes.

5 Q. Okay. And then what is the date of the Chief
6 Davis letter? Is that also January 9th of 1985?

7 A. Right. And that was from Art Curtis to Chief
8 Davis, and then from Art Curtis to me, January 9th.

9 Q. Okay.

10 A. And then there's a letter May 9th, 1985, from
11 Jim Peters to Barb Linde, and then there's a letter
12 May 15th, 1985, from Art Curtis to Norm.

13 Q. Okay. Okay. Thank you.

14 You also mentioned that you reviewed the Ninth
15 Circuit Model Civil Jury Instruction 9.2?

16 A. Yeah. 9.20, yeah.

17 Q. When was the last time you looked at that?

18 A. This morning.

19 Q. Okay. Prior to when you just pulled it for
20 this case?

21 A. I don't -- I couldn't tell you when the last
22 time I looked at it was. I don't know that I've ever
23 looked at it.

24 Q. Okay. And you said you looked at prosecution
25 standards for, I believe it was RCW 9.94.11. Can you

REBECCA J. ROE - 12/13/2012

Page 15

1 tell me about what that is?

2 A. 9.94A.411 is the standards that came into
3 effect in -- I believe they took effect originally in
4 1984, that talked about what the filing standards should
5 be, and they were -- they were different between crimes
6 against persons versus crimes against property.

7 Q. Okay. And you answered one of my questions.
8 You believe what you reviewed came into -- was enacted
9 in 1984?

10 A. I think it was enacted as a part of the
11 Sentencing Reform Act of 1981 that took effect in 1984.

12 Q. And do you know what the current law is?

13 A. I believe it's substantially the same. I
14 don't know that it's been changed.

15 Q. All right. When is the last time you looked
16 at --

17 A. I'm looking at it right now.

18 Q. Okay. And I'm asking you not what you're
19 looking at right now but when the last time you looked
20 at whether or not that statute had been amended.

21 A. I don't know how to answer that.

22 Q. Okay.

23 A. I mean, it says on the document I'm reading
24 when -- it relates to all the times it's been amended in
25 the, you know, the WestLaw version of the law.

REBECCA J. ROE - 12/13/2012

Page 62

1 correct?

2 A. Yes.

3 Q. I mean, we're not talking about whether or not
4 you should fix the kitchen sink. We're talking about a
5 charging decision regarding a man who Clark County was
6 telling you may have grotesquely violated his
7 five-year-old daughter.

8 MR. BOGDANOVICH: Object to the form.

9 A. I was very used to dealing with making these
10 kinds of charging decisions, and they were all
11 important.

12 Q. Who did you believe your opinion would be
13 reviewed by?

14 A. That's a good question. I don't really know.
15 I can't tell you, as I sit here today, who I thought
16 would review it.

17 Q. Did you expect it to be reviewed by Jim
18 Peters?

19 A. I can't tell you whether I did or I didn't.

20 Q. Did you expect it to be reviewed by Sharon
21 Krause?

22 A. Well, since the decline always goes to the
23 investigating officer, and she was the investigating
24 officer, I have to assume that she would have reviewed
25 it.

REBECCA J. ROE - 12/13/2012

Page 73

1 A. I don't have any reason to believe it was
2 incorrect.

3 Q. Okay. And is it fair to say that you might
4 have gotten that information from Jim Peters?

5 A. It's possible, because I don't know where I --
6 I frankly don't know where I got it.

7 Q. All right. It's important -- whether or not
8 Katie talked to a female counselor is pretty important
9 to this case, correct?

10 A. I don't know if it's pretty important, or
11 whether I want to agree with "pretty important." It
12 certainly is a fact that when -- that I felt was
13 significant enough to include in the decline.

14 Q. Okay. I'm just checking my notes.

15 You would agree with me that an important
16 consideration in the case is that Katie has the ability
17 to talk and verbalize sexual abuse, correct?

18 A. Correct.

19 Q. You also conclude: Katie's initial naming of
20 suspects is very disturbing; is that correct?

21 A. Right.

22 Q. And you conclude: Katie's explanation that
23 she thought it wouldn't hurt Shirley's feelings as much
24 just didn't make the disturbances go away; is that
25 correct?

REBECCA J. ROE - 12/13/2012

Page 74

1 A. Right.

2 Q. You write that the case has built-in
3 reasonable doubt; is that correct?

4 A. Right.

5 Q. You write, "Combined with page 5 of Shirley's
6 handwritten statement, where child talked about rubbing
7 Shirley, it creates questions of fact vs. fantasy"; is
8 that correct?

9 A. Right.

10 Q. And I wanted to ask you so I don't have to go
11 through it twice -- let me read a couple of these again.

12 When you concluded: "Although I believe child
13 was clearly abused, and probably by the defendant, the
14 case is unwinnable," does that add to the probable cause
15 analysis, that conclusion alone?

16 A. I don't understand the question.

17 Q. Let me see if I can make it better with some
18 of the others. When you conclude that Katie did not
19 talk to a female counselor, does that add to probable
20 cause?

21 A. I guess I just -- I'm -- I don't understand
22 how you're using the term "add to probable cause."

23 Q. Okay --

24 A. If you're trying to say: Does the fact she
25 wouldn't talk to a female counselor make it more or less

REBECCA J. ROE - 12/13/2012

Page 75

1 likely that her father abused her, my answer would be,
2 it doesn't say anything, one way or the other.

3 Q. Okay. So the fact that Katie did not talk to
4 a female counselor does not, in your opinion, detract
5 from a probable cause analysis?

6 A. Correct.

7 Q. Okay. Where it says, "Katie's initial naming
8 of suspects is very disturbing," does that add or
9 detract from a probable cause analysis?

10 A. That detracts from a probable cause analysis.

11 Q. You said "detracts"?

12 A. Yes.

13 Q. Okay. And when it says, "Katie's explanation
14 that she thought it wouldn't hurt Shirley's feelings as
15 much just didn't make the disturbances go away," does
16 that conclusion add or detract from a probable cause
17 analysis?

18 A. Detract.

19 Q. And when you conclude that: "Combined with
20 page 5 of Shirley's handwritten statement, where child
21 talked about rubbing Shirley, it creates questions of
22 fact vs. fantasy," does that add or detract from a
23 probable cause analysis?

24 A. Detracts.

25 Q. And when you say -- when you conclude: "There

REBECCA J. ROE - 12/13/2012

Page 77

1 the interviews with Sharon Krause, would that add to the
2 probable cause analysis?

3 A. It depends on what she was consistent about,
4 because, just as with inconsistencies, some are material
5 and some aren't. With consistencies, some are material
6 and some are not.

7 Q. So she could be consistent all over the place,
8 but it still might not add to the probable cause
9 analysis; is that correct?

10 A. That's correct.

11 Q. Okay. And she could be inconsistent just all
12 over the place, and it wouldn't detract from the
13 probable cause analysis, in your mind; is that correct?

14 A. I'm not going to let it -- let the record
15 stand like that. It would depend on what she was
16 inconsistent about.

17 Q. Okay. You also concluded that you found it
18 disturbing that she's inconsistent on whether it
19 happened more than once. Does that add or detract from
20 the probable cause analysis?

21 A. Detracts.

22 Q. You also concluded: "I don't expect
23 consistency on number of times for a five year old, but
24 question of one vs. more than one should be consistent."
25 When you draw that conclusion and you say "should be

REBECCA J. ROE - 12/13/2012

Page 79

1 Q. The question of once versus more than once is
2 a material inconsistency in Katie's reporting, as
3 related in Sharon Krause's reports, correct?

4 A. I believed that it was.

5 Q. Okay. Another conclusion you draw is: If it
6 happened more than one time, to account for inconsistent
7 explanations, I'd expect ejaculation at some point being
8 described." Does the fact that no ejaculation was ever
9 described by Katie add or detract from the probable
10 cause analysis?

11 MR. BOGDANOVICH: Object to the form, in
12 that it didn't specify time.

13 A. It detracts.

14 Q. Okay. And due to the objection, is it your
15 understanding that Katie did not report anything akin to
16 observing anything like -- strike that.

17 Obviously she's not going to use the term
18 "ejaculation"?

19 A. Right.

20 Q. But can we agree that, at the time you
21 reviewed the case, Katie had made no report suggesting
22 she witnessed anything akin to ejaculation, as it would
23 be described by a normal five-year-old?

24 A. That's my recollection and that's what I wrote
25 here.

REBECCA J. ROE - 12/13/2012

Page 80

1 Q. Okay. So would you agree that you concluded
2 that if it happened more than one time, to account for
3 inconsistent explanations, you would expect ejaculation
4 at some point being described, and the fact that it
5 wasn't detracted from the probable cause analysis?

6 A. Right.

7 Q. And you did you conclude that: "Here there
8 are several problems"?

9 A. Right.

10 Q. And does that add or detract to the probable
11 cause analysis?

12 A. Well, it's just restating what we just said,
13 that it detracts.

14 Q. Okay. You also write, "...the case is
15 unwinnable, even assuming you can get the child to
16 talk." Is that what you concluded?

17 A. Correct.

18 Q. Okay. Did you know, at that time, whether
19 there were any plans to try to get the child to talk?

20 A. I don't recall that I knew anything about
21 that, one way or the other.

22 Q. Did you give any advice to the Clark County
23 office about how they should get the child to talk?

24 A. I don't recall.

25 Q. And this is a strong conclusion, right?

REBECCA J. ROE - 12/13/2012

Page 115

1 the word "wiener"?

2 A. I don't remember.

3 Q. If I told you that the words pee-pee, butt,
4 and wiener were only said by Jim Peters, do you have any
5 reason to dispute that?

6 A. No.

7 Q. On what page does Katie Spencer begin to speak
8 about the abuse?

9 A. I have no idea.

10 Q. Okay. Have you ever tried to determine on
11 what page Katie begins to speak about the abuse?

12 A. No.

13 Q. Have you ever tried to determine at any point
14 on the video - in the transcript, the video, or
15 otherwise - where, precisely, Katie begins to speak
16 about the abuse?

17 A. No.

18 Q. All right. Would you agree, on multiple
19 occasions, that Mr. Peters makes statements to Katie
20 suggesting that Katie told Sharon about the abuse?

21 A. Yes.

22 Q. And is that proper?

23 A. Pardon?

24 Q. Is that a proper way to do this interview?

25 A. It's not improper.

REBECCA J. ROE - 12/13/2012

Page 170

1 would, at least to some degree, strengthen Ray's defense
2 to the charges against him?

3 MS. FETTERLY: Are you referring to just
4 the videotaped interview or other statements by Katie?

5 MR. JOHNSON: Videotaped -- strike that.

6 Q. (By Mr. Johnson) You would agree that the
7 videotaped interview could be used by a defense attorney
8 to defend against charges that Ray abused Big Matt or
9 Little Matt, and that would, to some degree, strengthen
10 the defense's case against those charges?

11 A. I would agree it could be used. I'm not sure
12 the degree to which I think it would strengthen.

13 Q. Correct. But to some degree, it would
14 strengthen the case, correct?

15 A. Yes.

16 Q. Okay. Now I want to get back to how you were
17 contacted on the civil rights case. You said
18 Ms. Fetterly -- or Mr. Peters contacted you first,
19 correct?

20 A. Right.

21 Q. And after that, did he contact you again?

22 A. No.

23 Q. Have you spoken with him since that first
24 contact?

25 A. No.

REBECCA J. ROE - 12/13/2012

Page 217

1 victim in a child sex abuse case, prosecutors should
2 request an order prohibiting the defendant contact with
3 other children?

4 A. Yes.

5 Q. Okay. Just a couple more.

6 It is your testimony that the video relates to
7 probable cause, correct?

8 A. That the video relates --

9 MS. FETTERLY: Object as to form.

10 A. I guess I don't understand what ...

11 Q. Was it your testimony that the information
12 gathered in the video of December 11th of 1984 relates
13 to probable cause?

14 MS. FETTERLY: Object as to form.

15 A. I still don't -- yeah, I'm -- I'm -- I don't
16 understand that --

17 The information in the video would be
18 information you would consider in determining whether or
19 not to file charges.

20 Q. And the video should have been disclosed prior
21 to Ray's guilty plea, correct?

22 A. Yes.

23 Q. And you agree that a defense attorney could
24 have argued that the video negated probable cause,
25 correct?

REBECCA J. ROE - 12/13/2012

Page 222

1 But could a defense attorney have used the
2 video to try to bring a motion to win release? Sure,
3 they could have tried that.

4 MR. JOHNSON: Thank you very much.
5 Nothing further.

7 EXAMINATION

8 BY MR. BOGDANOVICH:

9 Q. I do have one follow-up, Ms. Roe. You
10 testified that based on the way your decline notices
11 would usually be sent out of your King County
12 Prosecutor's Office, you would expect that Detective
13 Krause would have received it. Was that what your
14 testimony was?

15 A. Yes.

16 Q. Do you know if, in fact, your decline notice
17 in this case was sent to Detective Krause?

18 A. No, I don't know.

19 Q. Do you know if she ever saw it during the
20 investigation of the Spencer case?

21 A. I don't know.

22 MR. BOGDANOVICH: That's all I have.

23 ///

24 ///

25 ///

REBECCA J. ROE - 12/13/2012

Page 224

C E R T I F I C A T E

STATE OF WASHINGTON }
 }
COUNTY OF PIERCE }

I, the undersigned officer of the Court,
under my commission as a Notary Public in and for
the State of Washington, hereby certify that the
foregoing deposition upon oral examination of the
witness named herein was taken stenographically
before me and thereafter transcribed under my
direction;

That the witness before examination was
first duly sworn by me to testify truthfully;
that the transcript of the deposition is a full, true
and correct transcript of the testimony, including
questions and answers and all objections, motions,
and exceptions of counsel made and taken at the
time of the foregoing examination;

That I am neither attorney for, nor a
relative or employee of any of the parties to the
action; further, that I am not a relative or
employee of any attorney or counsel employed by the
parties hereto, nor financially interested in its
outcome.

IN WITNESS WHEREOF, I have hereunto set my
hand and seal this 26th day of December, 2012.

KAREN M. GRANT
NOTARY PUBLIC in and for the
State of Washington, residing
at Edgewood.
My commission expires 3/13/14.

Date: 11/27/84

X
Suspect:

Spencer, Bruce

Re: Cheryl Ray SpencerReferred Crime: SR 10Officer: Sharon KrauseAgency: Clark Co. Sheriff's OfficeCase No: 84-8506

We are declining to file this case in Superior Court for the following reason:

- ☐ A. Case is being returned for filing in municipal or district court.
- ☐ B. Case is being declined for non-evidentiary reasons.
- ☒ C. Case is being returned because it is legally insufficient.

Reasons:

Five year old victim alleges her natural father sexually assaulted her when she visits a aunt, who is a step-mom, Shirley in Vancouver, and elusional disclosure to Shirley and victim names. Both are no longer abused her an addition to the A.

Child appears from police reports to be extremely reluctant to talk about facts. Sharon Krause had to spend several hours one on one with victim, who also indicated she would not talk about it "with Dorja". She also did not talk to a female counselor. This clearly does not bode well for testifying in court.

2) Elusional naming of multiple

Interview? ☐ yes ☐ no

if notified on _____

Proposed by:

Date:

Approved by: R.D. PoeDate: 11/27/84

King County Prosecuting Attorney's Office

DECLINE

(original to file; copy to detective; Chief, Criminal Div.)

00000227
Spencer000411

suspects is very disturbing and child explanation that she thought it wouldn't hurt Shirley's feelings as much just didn't make the "disturbance" go away. Combined with p. 5 of Shirley's handwritten statement, where child talked about rubbing Shirley - it creates questions about fact vs. fantasy. I believe this point is a built in reasonable doubt.

2) There are inconsistencies - not surprisingly in child's statements over all issues:

no. of times - many times, vs. one time
 what I was wearing - I was naked vs. I was wearing underwear vs. I was wearing robe
 what V was wearing - both naked vs. V's had pajamas vs. V had pajamas

all the varying descriptions may well be the result of the descriptions of different events - but then we find it disturbing that she's inconsistent on whether it happened more than once. I don't expect consistency on number of times for 5 yr. old, but question of one vs. more than one - should be consistent.

Date: 11-27-84
 Suspect: Clyde Ray Spencer Referred Crime: Rape (Stat)
 Officer: _____ Agency: _____ Case No: 84-8506

We are declining to file this case in Superior Court for the following reason:

- ☐ A. Case is being returned for filing in municipal or district court.
- ☐ B. Case is being declined for non-evidentiary reasons.
- ☐ C. Case is being returned because it is legally insufficient.

Reasons:

1. If it happened more than 1x - to account for inconsistent explanations, I'd expect explanation at some point being furnished.

In sum, I think a case with a five year old and absolutely nothing else is viable if there is no significant problem with what the five year old says. Here, there are several problems. Although I believe child was clearly abused and probably by the defendant, the case is unworkable even assuming you can get the child to talk.

 Tim Interview? yes no

"in notified on" _____

Proposed by:

Date:

Approved by:

Date:

King County Prosecuting Attorney's Office

DECLINE

(Original to file; copy to detective; Chief, Criminal Division)

00000229

Spencer000413